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HOUSE BILL 249

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Joni Marie Gutierrez

AN ACT

RELATING TO PROPERTY; PROVIDING MOBILE HOME PARK RESIDENTS WITH PROTECTION AGAINST EXCESSIVE RENT INCREASES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the Mobile Home Park Act is enacted to read:

"[NEW MATERIAL] RENT INCREASE--NOTICE.--"

A. A landlord shall provide written notification of a rent increase to the affected residents no later than sixty days before the effective date of the increase. The notice shall include:

(1) the amount of the rent increase, including any portion of the increase that is attributable to capital improvements of the mobile home park;

(2) the effective date of the rent increase;

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1 (3) the specific reasons for the rent
2 increase;

3 (4) the names and addresses of all affected
4 residents; and

5 (5) a copy of the resident's rights pursuant
6 to this section and Section 2 of this 2009 act.

7 B. If the landlord fails to notify the residents of
8 a rent increase as required by this section, the rent increase
9 shall be unenforceable."

10 Section 2. A new section of the Mobile Home Park Act is
11 enacted to read:

12 "[NEW MATERIAL] RENT INCREASE DISPUTE--MEDIATION--CIVIL
13 ACTION.--

14 A. If a majority of the residents affected by a
15 rent increase dispute the increase, the residents may submit
16 the dispute for mediation if, no later than thirty days before
17 the effective date of the rent increase, the residents provide
18 the landlord with the name of the residents' representative and
19 a written statement that they dispute the rent increase and are
20 requesting mediation.

21 B. The mediation shall be performed by a
22 professionally certified mediator approved by the landlord and
23 the residents' representative. The cost of the mediation
24 services shall be divided equally between the landlord and the
25 residents.

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1 C. No later than two business days before the
2 initial mediation session, the landlord shall provide to the
3 mediator and the residents' representative all documents and
4 information that the landlord considers relevant to support the
5 rent increase. The landlord shall have the burden of providing
6 information to show that the rent increase is reasonable.

7 D. Any resolution of the dispute shall include an
8 agreement regarding the amount and effective date of the rent
9 increase. If the dispute is resolved, the landlord shall not
10 be required to provide any additional notice in order for the
11 rent increase to take effect pursuant to the resolution.

12 E. If the landlord and residents are unable to
13 resolve a dispute over a rent increase, an action for abatement
14 of some or all of the rent increase based on a claim that the
15 increase is clearly excessive may be initiated by a majority of
16 the affected residents by filing a complaint in district court
17 in the judicial district in which the mobile home park is
18 located no later than two business days before the effective
19 date of the rent increase.

20 F. The residents shall pay the rent, including the
21 rent increase, to the landlord on or before the date the rental
22 payment is due. The landlord shall deposit the disputed
23 portion of the rent increase with the clerk of the court
24 pending an order by the court.

25 G. For the purposes of this section, a clearly

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1 excessive rent increase is an increase that is unreasonable
2 based upon the landlord's total reasonable or documented
3 expenses, including consideration of debt service, and a
4 reasonable return to the landlord on investment with
5 consideration being given to comparable investments.

6 H. If the court finds that the rent increase is
7 clearly excessive, the court may order abatement of the
8 proposed rent increase in full or in part."

9 Section 3. Section 47-10-19 NMSA 1978 (being Laws 1993,
10 Chapter 147, Section 5) is amended to read:

11 "47-10-19. RENT [INCREASE] DISCLOSURE REQUIREMENT.--

12 [~~A. A landlord shall fully and accurately disclose~~
13 ~~in writing to a resident an increase in rent. The disclosure~~
14 ~~shall be provided to a resident at least sixty days prior to~~
15 ~~implementation of an increase in rent.~~

16 B.] Upon receiving a written request from a
17 resident or prospective resident, a landlord shall fully and
18 accurately disclose in writing a current schedule of the range
19 of rental rates in the mobile home park. The landlord shall
20 include the date of preparation on the face of the schedule of
21 rental rates."